

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HARVEY MIGUEL ROBINSON, JR.,

Plaintiff,

v.

**PENNSYLVANIA DEPARTMENT OF
CORRECTIONS, *et al.*,**

Defendants.

CIVIL ACTION NO. 20-2978

ORDER

AND NOW, this 31st day of March 2022, upon consideration of the Medical Defendants' Motion to Dismiss [Doc. No. 24], the Pennsylvania Department of Corrections' Motion to Dismiss [Doc. No. 25], and the related briefing, it is hereby **ORDERED** that:

1. The Medical Defendants' Motion to Dismiss [Doc. No. 24] is **GRANTED in part** and **DENIED in part**, as follows:
 - a. Plaintiff's § 1983 claims against Defendants Wiener and Walsh are **DISMISSED without prejudice**.
 - b. Plaintiff's ADA and Rehabilitation Act claims against all individual defendants are **DISMISSED with prejudice**.
 - c. To the extent Plaintiff alleged a professional negligence claim, that claim is **DISMISSED without prejudice**.
 - d. The Motion is **DENIED** with respect to all other claims.
2. The Pennsylvania Department of Corrections' Motion to Dismiss [Doc. No. 25] is **DENIED**.
3. If he wishes to do so, Robinson may file an amended complaint no later than **May 2, 2022**. Any amended complaint must identify all defendants in the caption of the amended

complaint in addition to identifying them in the body of the amended complaint and shall state the basis for Robinson's claims against each defendant. The amended complaint shall be a complete document that does not rely on the Complaint or other papers filed in this case to state a claim. When drafting his amended complaint, Robinson should be mindful of the Court's reasons for dismissing claims from his Complaint as explained in the Court's Memorandum.

4. The Clerk of Court is **DIRECTED** to send Robinson a blank copy of the Court's form complaint for a prisoner filing a civil rights action bearing the above civil action number. Robinson may use this form to file his amended complaint if he chooses to do so.¹
5. If Plaintiff does not timely file an amended complaint, Defendants are **DIRECTED** to answer the Complaint on or before **May 16, 2022**.

It is so **ORDERED**.

BY THE COURT:

/s/ **Cynthia M. Rufe**

CYNTHIA M. RUGE, J.

¹ This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.